

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

EDUARDO VALDEZ SANTANA,

Plaintiff,

3:16-cv-2122-JR

v.

FINDINGS AND
RECOMMENDATION
AND ORDER

DHS, A. CLARKE, et al.,

Defendants.

RUSSO, Magistrate Judge.

Plaintiff's Application to proceed in forma pauperis (#1)
is allowed.

Plaintiff filed a "Civil Rights Action Pursuant to
Bivens, 28 U.S.C. § 1331 and Under § 1983" (#2), alleging he
has been "ordered removed / deported from the United States
...in violation of DHS/ICE rules, also in violation of due
process and for violations of his constitutional rights."

(sic). Plaintiff seeks "compensation for damages" and to be released from Immigration and Customs Enforcement(ICE) custody. Id.

Congress has designated the United States Immigration Court as the exclusive venue for deportation and removal determinations. 8 U.S.C. §§ 1229(a)(3); Morales-Izquierdo v. Gonzales, 489 F.3d 484, 500 (9th Cir. 2007). Once Immigration Court proceedings are concluded, the exclusive method of judicial review is through the United States Court of Appeals. See 8 U.S.C. § 1252(a)(1), (a)(5), (b)(9); Morales-Izquierdo v. Gonzales, 489 F.3d at 508. Therefore, this court lacks jurisdiction to decide the issues raised by plaintiff.

Plaintiff's complaint (#2) should be dismissed sua sponte for lack of jurisdiction.

Plaintiff's Emergency Motion for Preliminary Injunction (#3), and Motion for Appointment of Counsel (#6) should be denied as moot.

The Clerk of the Court should be directed to enter a judgment dismissing this proceeding.

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Federal Rules of Appellate Procedure Rule 4(a)(1), should not be filed until entry of the district court's judgment or appealable order. The parties have

fourteen (14) days from the date of service of a copy of this recommendation within which to file specific written objections with the court. Thereafter, the parties have fourteen (14) days within which to file a response to the objections. Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a waiver of a party's right to de novo consideration of the factual issues. It will also constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation.

Any appeal from an order adopting this Findings and Recommendation or judgment dismissing this case would be frivolous and not taken in good faith. Therefore, plaintiff's in forma pauperis status should be revoked.

DATED this 13th day of January 2017



Jolie A. Russo
United States Magistrate Judge